



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/509,195 | 09/24/2004 | Leif Christensen | 30120/32007 | 7847 |

4743 7590 05/31/2007
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

| |
|----------|
| EXAMINER |
|----------|

PALO, FRANCIS T

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3644

| | |
|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,195

Applicant(s)

CHRISTENSEN, LEIF

Examiner

Francis T. Palo

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/24/04; 2/23/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group-II (claims 15-20) in the reply filed on 2/23/07 is acknowledged.

The traversal is on the ground(s) that lack of unity is not satisfied and a showing of serious burden has not been made by the office.

This is not found persuasive because applicant's IDS lists references found in classes 452 and 119 involving seven subclasses (separate classification, separate status in the art, different field of search) and a search of all the relevant classes in combination with text and non-patent literature would impose a serious burden on the examiner.

Finally, the condition of the apparatus claims (replete with functional language and antecedent basis deficiencies) combined with the broad method claim renders a distinction determination indefinite.

The requirement is still deemed proper and is therefore made **FINAL**.

Claim Objections

Claims 18 and 19 are objected to because of the following informalities:

The claims appear to be identical. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-20 are rejected under 35 U.S.C. 102(b) as anticipated by or,
in the alternative, under 35 U.S.C. 103(a),
as obvious over **Walker et al.** (EP 920807A1) 1999.

Regarding independent **claim-15**:

Walker '807 teaches the method of the instant claim (see figures 4A and 4B).

Specifically, Walker teaches a system for moving animals towards a point of slaughter (Title) comprising; driving animals in an oblong corridor (depicted between the darkened sidewalls) from an entrance end (left end) towards an exit end (at the entrance of the stunning unit (43)) and past an open division gate (7) as claimed; further, the division gate (7) of Walker is placed and has room for animals as claimed.

Walker depicts in figure-4B the closing of the division gate (7) as claimed, and the driving of a group of animals into a transfer section (41) as claimed.

Art Unit: 3644

Walker further depicts closing access from the corridor section (40) by gate (8) and driving the group into the stunning unit (43) as claimed.

Finally, the system of Walker is capable of the repeating process as claimed in 1(f).

Regarding claim-16:

The discussion above regarding claim-15 is relied upon.

Walker teaches a transfer section (41) in communication with a stunning unit (43) and a moveable end wall (19); Walker does not position the stunning unit and moveable wall as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have configured the transfer section and stunning unit as claimed, by relocating the stunning unit and duplicating a sliding wall of Walker as claimed; as further such modification merely requires relocating and duplicating essential components which is within the ordinary skill of one in the relevant field.

Regarding claims 17 and 20:

The discussion above regarding claim-15 is relied upon.

Walker depicts driving means (18 and 19) as claimed.

Regarding **claims 18 and 19**:

The discussion above regarding claim-15 is relied upon.

The system of Walker as depicted is capable of functioning as claimed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Banse '033 and Gent '695 teach gate and pen structures.

Fullerton '115, Flocchini '599 and Kildegaard '979 teach driving means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu.,Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Francis T. Palo

Francis T. Palo
Primary Examiner
Art Unit 3644